LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

301 State House
(317)232-9855

ADMINISTRATIVE RULE
FISCAL IMPACT STATEMENT

PROPOSED RULE: 01-175 **DATE PREPARED:** Dec 04, 2001
STATE AGENCY: Office of Medicaid Policy and Planning **DATE RECEIVED:** Nov 14, 2001

FISCAL ANALYST: Kathy Norris
PHONE NUMBER: 234-1360

Digest of Proposed Rule: This rule would prevent Medicaid applicants from gaining Medicaid eligibility while sheltering substantial assets in certain types of annuities. Annuities must be commercially issued, they must be irrevocable, and they must return the principal and interest within the purchaser's life expectancy. Annuity payments must also be substantially equal. If these requirements are not met, the purchase price of the annuity is considered a transfer for less than fair market value, and an eligibility penalty will be imposed.

Applicants are believed to be using an existing loophole to qualify for Medicaid through the purchase of a lump-sum annuity with a "balloon" payment. These annuities are structured with a very low monthly payout with a balloon payment the final month of the annuity. The term of the annuity is less than the annuitant's life expectancy, and it therefore qualifies as an allowable transfer under the existing rules. Medicaid payments are higher because the low monthly payment reduces the income available that the individual must use to pay for the care. If the individual dies before the final payment is made, the annuity payments are made to a named beneficiary. Because the annuity is not a part of the person's probate estate, it is not subject to Medicaid estate recovery. If the final payment is made to the individual, another "balloon" annuity may be purchased with the proceeds, and Medicaid eligibility is unaffected.

Governmental Entities: State: This rule would reduce the amount of Medicaid payments by increasing the amount of income available to an individual that must be contributed towards the cost of care. The Office of Medicaid Policy and Planning estimates that about $2.3 M could be saved annually in State General Funds.

There are no statistics reporting the number of "Medicaid friendly" annuity arrangements that have allowed Indiana applicants and recipients to shelter assets while allowing the Medicaid Program to assume the cost of their nursing home care. It is known that Medicaid planning is a growing business. The Office of Medicaid Policy and Planning has anecdotal information from eligibility case workers that these "Medicaid friendly" annuity arrangements are being used to qualify applicants for Medicaid benefits. The cost estimate is based on the assumption that 2% of the existing Medicaid nursing home population has taken advantage of balloon annuity arrangements for an average 7-month length of stay. The true number of individuals that have taken advantage of the opportunity to shelter assets is unknown; it may be higher than the estimated 2%, or it may be lower. The proposed rule closes the loophole in the existing rule that allows some individuals who have the financial ability to pay for their care, but choose to shelter the assets.

Local: There is no local fiscal impact or unfunded mandates.

Regulated Entities: This rule affects individuals who are attempting to shelter available assets and qualify for Medicaid benefits. Individual applicants and Medicaid recipients are not considered to be "regulated entities".

Information Sources: Donna Stolz Sembroski, Office of Medicaid Policy and Planning, 232-1282.